OLR Bill Analysis

HB 5484

AN ACT CONCERNING HEALTH INSURANCE COVERAGE AND ABUSE-DETERRENT PRESCRIPTION MEDICATIONS.

SUMMARY:

This bill bars individual and group health insurance policies from requiring the use of a generic drug prescribed for pain management that is not drug abuse-deterrent when there is a therapeutically equivalent brand name available that is abuse-deterrent. Currently, these policies can require that therapeutically equivalent generic drugs be substituted for brand name pain management drugs.

Abuse-deterrent prescription drugs (1) are specially formulated to deter users from using the drug in an altered form or in an unintended way and (2) contain U.S. Food and Drug Administration approved abuse-deterrent labeling.

The bill applies to health insurance policies, whether individual or group, that provide

1. basic hospital expense coverage,
2. basic medical-surgical expense coverage,
3. major medical expense coverage,
4. limited benefit health coverage,
5. hospital or medical service plan contract, or
6. hospital and medical coverage provided to subscribers of a health care center in the state.

Such policies are required to cover access to, and necessary treatment by, a pain management specialist, including coverage for

prescription drugs.

Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2014

BACKGROUND

Abuse-Deterrent Pain Management Drugs and Labeling

To some extent, pain management drugs can be made abuse-deterrent by combining the active drug, generally opioids, with another substance that counteracts or alters the active drug if its form is changed. The U.S. Food and Drug Administration (FDA) has characterized six properties which when present in a drug make that drug abuse-deterrent.

The FDA regulates prescription drug labeling, in concurrence with states, and requires that information on a drug's label be approved before the drug is marketed. Similarly, the FDA must approve of a drug being labeled as abuse-deterrent before that drug can be marketed as an abuse-deterrent drug. In January 2012, the FDA issued draft, non-binding guidance on how abuse-deterrent drugs should be labeled, and recommended that such labeling characterize the drugs abuse-deterrent properties and include the results of studies in those properties. The FDA further indicated that it has adopted a flexible, adaptive approach to approving abuse-deterrent labeling in order to facilitate the introduction of these drugs into the market and to appropriately react to the rapid scientific and technologic advancements underlying the development of these drugs.

Related Federal Law

The Affordable Care Act (P.L. 111-148) allows a state to require health plans sold through its exchange to offer benefits beyond those already included in its "essential health benefits," but the act requires the state to defray the cost of these additional benefits. The requirement applies to mandates enacted after December 31, 2011. As a

result, the state would be required to pay the insurance carrier or enrollee to defray the cost of any new benefits mandated after this date.

COMMITTEE ACTION

General Law Committee

Joint Favorable
Yea 16 Nay 2 (03/12/2013)